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11 **Attorney for Plaintiff DAVID J. LEE**

12 **UNITED STATES DISTRICT COURT**
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

14 **DAVID J. LEE, an individual and, on**
15 **behalf of others similarly situated,**

16 **Plaintiff,**

17 **vs.**

18 **CAPITAL ONE BANK and CAPITAL**
19 **ONE SERVICES, INC., Virginia**
20 **corporations, DOES 1 through 100,**
21 **inclusive,**

22 **Defendants.**

) **Case No.: C-07-4599 - MHP**

)
) **DECLARATION OF MATTHEW S.**
) **HALE, FILED IN SUPPORT OF**
) **ADMINISTRATIVE MOTION FOR**
) **ENLARGEMENT OF PAGE LIMITS**
) **FOR BRIEFING OF PLAINTIFF'S**
) **OPPOSITION TO DEFENDANTS'**
) **MOTION TO DISMISS**

) **[ADMINISTRATIVE MOTION;**
) **MEMORANDUM OF POINTS &**
) **AUTHORITIES FILED IN**
) **SUPPORT THEREOF; AND**
) **PROPOSED ORDER, FILED**
) **CONCURRENTLY]**

1 I, Matthew S. Hale, declare as follows:

2 1. I am counsel of record for Plaintiff David J. Lee, in the above-captioned action
3 and a member in good standing with the State Bar of California.

4 2. I have personal knowledge of all facts set forth in this Declaration and, if called
5 as a witness, I could and would testify competently to such facts under oath.

6 3. This Declaration is made in support of Plaintiff's Administrative Motion For
7 Enlargement Of Page Limits For Briefing Of Plaintiff's Opposition To Defendants' Motion To
8 Dismiss (the "Motion").

9 4. On December 20th 2007 I contacted Defense counsel James McGuire by e-mail
10 and requested a six (6) page extension, beyond of Local Rule 7-4(b)'s twenty-five (26) page
11 limit relative to my preparation of the Plaintiffs' Opposition to the Defendants' Motion to
12 Dismiss. (See Exhibit 1)

13 5. Thereafter, Mr. McGuire promptly responded by e-mail and indicated to me that
14 "we do not oppose your request for a few additional pages and you may so represent to the
15 Court." (See Exhibit 2)

16 I declare under penalty of perjury pursuant to 28 U.S.C. § 1746, that the foregoing is true
17 and correct.

18 Executed this 24th day of January 2008 in Newport News, Virginia.

19
20
21
22
23 By: 

24 Matthew S. Hale, Esq.
25 Counsel for Plaintiffs

Subject: Page Extension

From: Matt Hale <matthale@verizon.net>

Date: Thu, 20 Dec 2007 13:53:51 -0500

To: "McGuire, James R." <JMcGuire@mofo.com>

CC: "Jones, Melissa A." <MJones@mofo.com>

James:

I need an extra six (6) pages for my opposition brief. Would you stipulate to sign a consent order for the additional pages? I will of course reciprocate when the time comes you need a few extra pages.

Regards,

Matt Hale

Subject: Lee v. Capital One
From: "McGuire, James R." <JMcGuire@mofo.com>
Date: Thu, 20 Dec 2007 18:51:50 -0800
To: matthale@verizon.net
CC: "Jones, Melissa A." <MJones@mofo.com>

Matt:

I got your message on your planned ex parte request. As indicated, we do not oppose your request for a few additional pages and you may so represent to the Court. I do not have the rule book handy, but I think this is generally done by way of a "miscellaneous administrative request" per the local rules.

On the hearing date, do you have a particular objection to us moving it out by two weeks? I saw your message back to Melissa. While it is true that we could have known when our reply would be due when we filed our motion, it is also true that plans change and hindsight is 20-20. We have determined that preparing our brief between Christmas and New Years is problematic for several reasons and simply not necessary. We are not trying to inconvenience you in any way--to the contrary all of the additional time will be allocated to your brief. If there is something we are missing please let us know. We will otherwise exercise our right under the local rules to continue the hearing.

Of course, if you would like to discuss this matter by phone you can reach me in my office tomorrow.

Thank you for your continued cooperation and courtesy.

Regards,

James McGuire

(via BlackBerry)

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